

of Case; (1:21-cr-10045-ADB)

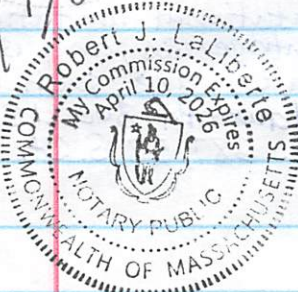
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- Declaratory Judgement Act**; a Federal Statute enacted in 1934, providing that in cases of "actual controversy", the Courts of the United States, shall have power, upon petition, declaration, complaint, or other appropriate pleadings, to determine declare rights and other legal relations, of any interested party petitioning for such declaration, whether or not further relief is or could be prayed, and such declaration shall have the force and effect of final judgement, or decree, and be reviewable as such 28 USC Section 2201, 2202, the Uniform Declaratory Judgement Act, first proposed in 1922 (9A Uniform Laws Annotated Declaratory Judgements)

- * 1 - "All Writs Act, 28 USC Section 1651, is meant to be used only in exceptional case, where there is clear abuse of discretion, or usurpation of judicial power" [La Bug v. Howes Leather Co., 352 U.S. 249, 77 S. Ct. 309, 1 L. Ed. 2d 290, reh'g denied, 352 U.S. 1019, 77 S. Ct. 553, 1 L. Ed. 2d 560]
- * 2 - "In determining what auxiliary writs are agreeable to usage, and principle of law, within meaning of 28 USC Section 1651(a), courts look first at common law" [United States v. Hayman, 342 U.S. 205, 72 S. Ct. 263, 96 L. Ed. 237]
- * 3 - "Where court who's action was sought to be prohibited, had clearly no jurisdiction of cause, originally, or of some collateral matter, arising therein, party who had objected to jurisdiction, at outset, and had no other remedy, would be entitled to writ of prohibition, as matter of right" [In Re Rice, 155 U.S. 396, 15 S. Ct. 149, 39 L. Ed. 198 (1894)]

Sep. 29 / 2021
Pepo H. El
Robert J. L
My Commission
April 10
COMM
[Seal of the Commonwealth of Massachusetts]



The Commonwealth of Massachusetts

On this _____ day of _____
before me, the undersigned notary public,
personally appeared, proved to me through
satisfactory evidence of identification, which were _____
preceding or attached documents, my _____
affirmed to me that the contents of the _____
accurate to the best of his/her knowledge and belief.

Robert J. LaLiberte, Notary Public
My Commission Expires April 10, 2026

The Commonwealth of Massachusetts

On this 29 day of SEPTEMBER, 2021
before me, the undersigned notary public, DENISE PETERSON
personally appeared, proved to me through
satisfactory evidence of identification, which were _____
_____ and _____
preceding or attached document to be the person who signed the
affirmed to me that the contents of the document are truthful and
accurate to the best of his/her knowledge and belief.

Robert J. LaLiberte, Notary Public
My Commission Expires April 10, 2026

* Title 18 USC Section 2340(3) "United States", means; District of Columbia

④

"The statutory, and constitutional elements of jurisdiction, are an essential ingredient of separation, and equilibration of powers that restrain the courts from ① acting at certain times, and even ② acting permanently regarding some subjects, for a court to pronounce, upon the meaning, or the Constitutionality of a State or Federal law, when the court has no jurisdiction to do so, is by very definition, ultra vires." [Steel Company v. Citizens for Better

Environment, 523 U.S. 83, 140 L. Ed. 2d 210, 118 S.Ct. 1003]

* ⑤

"Writ could be allowed, as at common law, to correct excess of jurisdiction, and in furtherance of justice" [McClellan v. Carland, 217 U.S. 268, 30 S.Ct. 501, 54 L. Ed. 762]

* ⑥

"Writ of prohibition will be granted where lack of jurisdiction is clear" [Ex Parte New York, 256 U.S. 490, 41 S.Ct. 588, 65 L. Ed. 1057] [1901] [Ex Parte New York, 256 U.S. 503, 41 S.Ct. 592, 65 L. Ed. 1063] [1921]

① (Subject Matter) \ (Jurisdiction) \ (Article 3 Section 2)

"In view of definition of judicial power, stated in constitution, Article 3 Section 2 Clause 1 constitutional, as well as statutory defect, in suit instituted by United States, under 28 USC Section 2201, not presenting "actual controversy", which that statute prescribes" [Puc v. United States, 335 U.S. 534, 78 S.Ct. 446, 7 L. Ed. 470 reh'g denied, 356 U.S. 925, 78 S.Ct. 713, 2 L. Ed. 2d 760]

②

"Mere existence of statute, which may or may not be applied to plaintiff, is not sufficient to create case or controversy, and is not sufficient to satisfy actual controversy requirement of Declaratory Judgement Act (28 USC Section 2201)" [Western Mining Council v. Watt, 643 F.2d 618, 11 Env'tl. L. Rep. 20440 (9th Circuit) cert. denied, 454 U.S. 1031, 102 S.Ct. 567, 70 L. Ed. 2d 474]

③

"Abstract question of law did not constitute grounds of Federal jurisdiction, or litigation" [Cooks Estate Trustees v. Sheppard, 8 F. Supp. 21 (D. Tex.) aff'd, 393 U.S. 527, 55 S.Ct. 145, 79 L. Ed. 637]

④

"By cases and controversies, are intended, claims or contentions of litigation brought before courts for adjudications by regular proceedings, established for protection, or enforcement of rights" [Smith v. Adams, 130 U.S. 167, 9 S.Ct. 566, 32 L. Ed. 895]

⑤

"Declaratory Judgement Act, in its limitations to cases of "actual controversy", manifestly has regard to constitutional limitations of exercise of judicial power to cases and controversies, and is operative only in respect to controversies which are such in constitutional sense" [Aetna Life Ins. Co. v. Haworth, 300 U.S. 227, 57 S.Ct. 461, 81 L. Ed. 617 reh'g denied, 300 U.S. 687, 57 S.Ct. 667, 87 L. Ed. 889]

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↓(Territorial)↓(Jurisdiction)↓(Article 4 Section 4)↓

- ① - Territorial Limitation; a limitation on the propagation of a Statute, within the boundaries of a particular District [20 Am J2d Cts Section 153]
- ② - Federal Offense; an offense, U.S. DISTRICT COURT, Statute, which is operative only within the District of Columbia [Beard v. Bennett, 72 App. D.C. 269, 114 F.2d 578]
- ③ - "District of Columbia, having an area of 69 square miles, and subject to the power of Congress to exercise exclusive legislation thereto" [Geofroy v. Riggs, 133 U.S. 258, 33 L. Ed. 642, 10 S. Ct. 295]
- ④ - "Congress has plenary power to regulate for the District of Columbia" [Mercury Press Inc. v. District of Columbia, 173 F.2d 636, 84]
- ⑤ - "There is however the suggestion, that the power of Congress to exercise legislation granted by Article 1 Section 8 Clause 17 of the Constitution is non-delegable because it is 'exclusive'. But it is clear from history of the provision, that the word 'exclusive' was employed to eliminate any possibility that the legislative power of Congress over the District was to be concurrent with the ceding States" [District of Columbia v. Thompson Company, 346 U.S. 100, 97 L. Ed. 1480, 73 S. Ct. 1007]
- ⑥ - District of Columbia Home Rules Act (Public Law 93-198, 87, Statute 774)
D.C. Code Section 1-203.02 "The legislative power, of the District of Columbia, shall extend to all rightfull subjects of legislation within the District, consistant with the Constitution of the United States, and provisions of this Act."
- ⑦ - Title 18 USC Section 2340(3) "United States", means; District of Columbia

* ↓(Extortion) ↓ *

- ① - Title 18 USC Section 872 (Extortion by Officers or Employees of the United States)
- ② - Title 18 USC Section 1951(b)(2) the term "extortion", means; the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right
- ③ - "To show extortion under color of official right, within Title 18 USC Section 1951 it is unnecessary that accused have absolute power to determine issue, it being sufficient that it is within jurisdiction, and that victim has reasonable belief, that accused does have power" [United States v. Hall, 536 F.2d 313 (10th Circuit) cert. denied, 429 U.S. 919, 97 S. Ct. 313, 50 L. Ed. 2d 285]

④ "Under Title 18 USC Section 1951(b)(2), extortion may be committed either by use of fear, or under color of official right, extortion under color of official right, is wrongful taking by public officer, of money, or property, not due to him/her, or his/her office, whether, or not, taking was accomplished by force, threats, or use of fear" United States v. Adcock, 558 F.2d 397, 2 Fed. R. Evid. Serv. (CBC) 1113 (8th Circuit) cert. denied, 434 U.S. 921, 98 S.Ct. 395, 54 L. Ed. 2d 277

⑤ "Extortion, under color of law, within meaning of Title 18 USC Section 1951, is use of governmental power to force involuntary payment from another" United States v. Sisk, 476 F. Supp. 1061 (MD Tenn. 1979) aff'd, 629 F.2d 1174 (6th Circuit 1980)

⑥ "Hobbs Act violation based on extortion by public official, needs not include proof of threat, fear, or duress, coercive nature of official office provide all inducement necessary to support conviction" United States v. O'Malley, 707 F.2d 1240, 13 Fed. R. Evid. Serv. (CBC) 1078 (11th Circuit 1983)

& United States v. Jannotti, 673 F.2d 578 (2nd Circuit) cert. denied, 457 U.S. 1106, 102 S.Ct. 2906, 73 L. Ed. 2d 1315

& United States v. Margiotta, 688 F.2d 108, 11 Fed. R. Evid. Serv. (CBC) 727 (2nd Circuit), reh'g denied, 811 F.2d 46 (2nd Circuit 1982) cert. denied, 461 U.S. 913, 103 S.Ct. 1891, 77 L. Ed. 2d

✱ (Embezzlement) ✱

① Title 18 USC Section 661 (Embezzlement and Theft)

Whoever, within special maritime, and territorial jurisdiction of the United States, takes and carries away, with intent to steal or purloin, any personal property of another, shall be punished as follows;

If property taken is of value exceeding \$1000, or is taken from the person of another, fine under this Title, or imprisonment, for not more than 5 years, or both

In all other cases, by fine under this title or by imprisonment not more than one year or both

If property stolen consists of evidence of debt, or other written instrument, the amount of money, due there on, or secured, or secured to be paid thereby and remaining unsatisfied, shall be the value of the stolen property

✱ True Bill; an indictment, as indicated by the endorsement of the words "True Bill" on the instrument. (in reference to; American Jurisprudence; 27 Am J1st Indict Section 30)

(Embezzlement and Theft) continued...

- ② = **Defective Title to Instrument**: the title to a person negotiating a negotiable instrument is defective when, obtained the instrument, or any signature thereto, by fraud, duress, force, fear, or other unlawful means, when negotiates in breach of faith or under circumstances as to amount to fraud. (reference; Uniform Negotiable Instruments Law, Section 55)
 = **Duress**: any wrongful act of one person that compels to transaction without his volition reference; [31 Am J2d Crim L Section 100]
- ② = **Negotiable Instruments Act**: an attempt to codify the entire field of the law of negotiable instruments. One of the Uniform Acts, ... a uniform act specifically repealed by the Uniform Commercial Code. A form of Statute promulgated in 1896, by the National Conference of Commissioners on Uniform State Laws, based on the British Bills of Exchange Act of 1882, it being an outgrowth of many years of effort, on part of the Bar Association, Jurist Publicist, Bankers, reference; 11 Am J2d B&N Section 41, & 15 Am J2d Com C Section 6
- ③ = **Embezzlement**: a statutory offense, not a common law crime, the fraudulent appropriation, or conversion by an agent, employee, corporate officer, trustee, public officer, or other person acting in fiduciary capacity or character, of money or property. reference; 18 Am J1st Embezz Section 2
- ④ = "Title 18 USC Section 661, was enacted to broaden common law offense of larceny" [United States v. Maloney, 607 F.2d 222 (9th Circuit) cert. denied, 445 U.S. 918, 100 S.Ct. 1280, 63 L.Ed. 2d 603]
- ① "Dismissal for lack of Article 3 standing, had to operate without prejudice" [Hochendoner v. Genzyme Corp. 823 F.3d 724 (1st Circuit 2016)]
- ② "Without jurisdiction, a court cannot proceed at all in any case, as jurisdiction is the power to declare the law, when jurisdiction ceases to exist, the only function remaining to the court, is that of announcing the fact of dismissing the cause" [Steel Co. v. Citizens for Better Environment, 523 U.S. 83, 140 L.Ed. 2d 210, 118 S.Ct. 1003]
- ③ **Federal Rules of Criminal Procedure (Title 7)**
 (Post Conviction Procedure, Arresting Judgement)
- (a) **In General**: upon defendants motion, or on its own, the court must arrest judgement: if the court does not have jurisdiction of the charged offense

(note; United States Courts require "actual controversy", Declaratory Judgement Act)

(Affiant statement):

There is an "actual controversy", since the subject matter is not in accord with Article 3 Section 2 Clause 1, or the Declaratory Judgement Act, pursuant to it.

The Statute is also out of territorial jurisdiction, as stated on page (2) of this petition.

These facts of jurisdiction mean an "actual controversy", of a violation of the accused persons rights.

Therefore is, the proper use of a United States Court according to the Declaratory Judgement Act, by member of the public and civil service employees, responding to petition.



"Where court who's action was sought to be prohibited, had clearly no jurisdiction of cause, originally, or of some collateral matter arising therein, party who had objected to jurisdiction at outset, and had no other remedy, would be entitled to writ of prohibition, as a matter of right."

[In Re Rice, 155 U.S. 396, 15 S. Ct. 149, 39 L. Ed. 198]

⊖ Title 28 USC Section 1605 (Jurisdictional Immunity of Foreign States)

(a) a foreign State, shall not be immune from jurisdiction of courts of United States, or the States, in any case

(a) in which the action is based upon a commercial activity carried on in the United States, by a foreign State

(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights

Affiant; (B) abuse of process, not only neglect of jurisdiction, but also Title 28 (Code of Conduct for Judges) (Canon 4) Fiduciary Activities, affirmed by case law;

"Courts powers are judicial only not Administrative or Investigative"
[Webster Eisenlohr Inc. v. Kalodner, 145 F. 2d 316, 4 Sec. Jud. Dec. 144 (3rd Circuit 1944) cert. denied, 325 U.S. 867, 65 S. Ct. 1404, 89 L. Ed. 1986]

Affiant; No Consent to jurisdiction or contract; reference; UCC Section 1-102(3)(4) & Corpus Juris Secundum, Section 1785, Volume 20

Plymouth County Correctional Facility
26 Long Pond Road
Plymouth MA 02360

Your Full Name Su Nombre Lleno

Pepo HEI aka Pepo W. Hard

ID# 79323

Unit & Room # 43/405

La unidad y Numero del Cuarto

THIS CORRESPONDENCE IS FORWARDED FROM
THE PLYMOUTH COUNTY CORRECTIONAL
FACILITY THE CONTENTS MAY NOT HAVE BEEN
EVALUATED AND THE PLYMOUTH COUNTY
SHERIFF'S DEPARTMENT IS NOT RESPONSIBLE
FOR THE SUBSTANCE OR CONTENT OF THE
ENCLOSED MATERIAL

BROCKTON MA 023

30 SEP 2021 PM 3



Court Clerk 40 Marianne Bowler (Judge) PM 12:31
John Joseph Moakley U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts 02210

2021 OCT -4
U.S. DISTRICT COURT
DISTRICT OF MASS.

02210-300475

